IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 35471 of 2007(W)

PETITIONER:

JIZ MERIN JACOB, H.S.S.T (HISTORY),
C.M.S.COLLEGE H.S.S., KOTTAYAM.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

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1. THE DIRECTOR OF HIGHER SECONDARY
EDUCATION, HOUSING BOARD BUILDINGS,
SANTHI NAGAR, THIRUVANANTHAPURAM.

2. THE CORPORATE MANAGER,
CMS SCHOOLS, DIOCESE OF MADHYA KERALA,
CHURCH OF SOUTH INDIA, DIOCESAN OFFICE,
CATHEDRAL ROAD, KOTTAYAM-1.

BY ADV. SRI.BABU VARGHESE
SENIOR GOVT. PLEADER, SRI.T.T.MUHAMOOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 35471/2007(W)

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE PROCEEDINGS OF THE SELECTION COMMITTEE HELD ON 7.9.2000.

EXT. P2: COPY OF THE APPOINTMENT ORDER DATED 18.9.2000 OF THE PETITIONER.

EXT. P3: COPY OF THE STAFF FIXATION ORDER DT. 6-6-2002 ISSUED BY THE 1ST RESPONDENT.

EXT. P4: COPY OF THE JUDGMENT DT. 29-6-2007 IN W.P.(C) NO.19954/2007 OF THIS HON. COURT.

EXT. P5: COPY OF THE ORDER DATED 7-11-2007 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

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S.SIRI JAGAN, J.

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W.P.(C) No.35471 of 2007(W)

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Dated this the 10th day of December, 2007

JUDGMENT

The petitioner is aggrieved by the non-approval of her appointment as HSST(History) in the 2nd respondent's School. Earlier, the petitioner filed W.P.(C) No.19954/2007 in which there was a direction to the 1st respondent to consider the claim of the petitioner. Pursuant to Ext.P4 judgment in that writ petition, the 1st respondent passed Ext.P5 order. The operative portion of it reads thus:

> "When the irregularity was noticed, the Manager ought to have reverted the 2nd rank holder and appointed the 1st rank holder in the first sanctioned post. This was not done. However, Department on receiving a representation from Smt.Jiz Merin Jacob and on verifying the proposal from the Corporate Manager had issued necessary directions to the Corporate Manager to give notional seniority to Smt.Jiz Merin Jacob with effect from 18.9.2000 and to forward the proposal appointing her as HSST(Jr.) w.e.f. 15.7.2000 in accordance with the staff fixation in respect of CMS College HSS, Kottayam for the academic year 2001-02 and appoint her as HSST(Full-time post) in the first arising vacancy. It was further observed that the financial loss caused to Smt.Jiz Merin Jacob consequent on the irregular appointment made by the Manager, should be met by him, if claimed by the incumbent.
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> The Director of Higher Secondary Education sticks on to the decision already taken. Hence, in compliance with the

judgments referred to, orders on the above lines is issued for immediate follow up action by the appointing authority.

The Corporate Manager of CMS College HSS has, however, informed that he has requested Government to sanction Humanities batch in CMS College HSS, Kottayam from 2000-01 academic year onwards. So that the problems will be settled amicably by appointing Smt.Jiz Merin Jacob in the first sanctioned post. This clearly shows that she is the senior eligible hand for the post she being the 1st rank holder in the selection process. It is purely a matter of Government decision. It is therefore, directed that necessary steps may be taken by the Manager to get the appointment of Smt.Jiz Merin Jacob as HSST(Jr.) during 2001-02 and as HSST w.e.f. 2002-03 onwards as per the existing staff fixation approved.

In the circumstances mentioned, Ext.P5 representation of Smt. Ancy Susan Abraham is found meritless and stands dismissed."

2. The grievance of the petitioner is that in spite of Ext.P5 order, the 2nd respondent is not taking appropriate steps to get the petitioner's appointment properly approved. The learned Government Pleader submits that the 1st respondent is unable to take further steps in the matter only because the 2nd respondent is not taking appropriate steps in matter as directed in Ext.P5 order. In spite of receipt of notice the 2nd respondent has not chosen to contest the writ petition. In the above circumstances, this writ petition is disposed of with following directions:

The 2nd respondent shall within a period of two weeks from the date of receipt of a copy of this judgment take

appropriate steps for getting the appointment of the petitioner approved, as directed in Ext.P5 judgment. On receipt of the same 1st respondent shall pass appropriate orders on the approval of the petitioner's appointment. If the 2nd respondent does not take appropriate steps as directed above, 1st respondent shall take appropriate steps against the 2nd respondent for disqualifying him as manager.

The writ petition is disposed of as above.

S.SIRI JAGAN,
JUDGE

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